

STATE OF MICHIGAN
COURT OF APPEALS

JOSEPH BENNETT WHITE, II and STEVEN P.
IAMARINO, P.C.,

UNPUBLISHED
May 13, 2004

Plaintiffs-Appellants,

v

CITY OF FLINT,

Nos. 247662, 248325
Genesee Circuit Court
LC No. 02-074617-NZ

Defendant-Appellee.

Before: Fitzgerald, P.J., and Jansen and Talbot, JJ.

PER CURIAM.

Plaintiffs Joseph Bennett White, II, and Steven P. Iamarino, P.C., appeal as of right the circuit court orders granting summary disposition for defendant, and denying plaintiffs' motion for sanctions. We affirm.

Plaintiff Joseph Bennett White, II, was injured in a head-on automobile collision while police were allegedly chasing a suspect through a residential area, and retained plaintiff Steven P. Iamarino, P.C., as counsel. On September 9, 2002, Iamarino sent defendant City of Flint a request under the Freedom of Information Act (FOIA), MCR 15.231 *et seq.* The letter was signed by Iamarino, and the body of the letter did not indicate that Iamarino was making the request on behalf of a client, although the letter contained a notation that a copy had been provided to "client." It is undisputed that a public body is required to respond to an FOIA request within five business days. MCL 15.235(2). It is also undisputed that defendant failed to respond in a timely fashion. Plaintiff White brought a circuit court action requesting statutory damages pursuant to MCL 15.235(3). Before the hearing on plaintiff White's motion, defendant responded to Iamarino's FOIA request and provided some of the requested information, but claimed an exception for the city's police-chase policy. At the motion hearing, the trial court concluded that plaintiff White did not have standing to bring the FOIA action, but granted an oral motion to add Iamarino as a plaintiff to the lawsuit. The court also found that defendant had provided all necessary information to plaintiffs, granted defendant summary disposition, and denied plaintiffs' subsequent motion for damages pursuant to MCR 2.114.

Plaintiffs argue on appeal that the trial court improperly dismissed plaintiff White for lack of standing. Because plaintiffs fail to develop any reason why White's dismissal from this lawsuit made any difference, this issue is moot because the trial court amended the caption and allowed the lawsuit to proceed. A party may not leave it to this Court to search for a factual

basis to sustain or reject a position. *People v Norman*, 184 Mich App 255, 260; 457 NW2d 136 (1990). Even if we were to determine that White had standing to bring the complaint, there is no relief to be granted because the trial court did not dismiss the complaint for lack of standing. An issue is moot when it is “impossible for the court, if it should decide in favor of the party, to grant relief.” *Warren v Detroit*, ___ Mich App ___; ___ NW2d ___ (2004).

Plaintiffs also contend that the trial court erred in denying their motion for sanctions because defendant’s response to plaintiffs’ FOIA request was improperly dated. Defendant said that the incorrect date was a typographical error and, throughout these proceedings, conceded that the response was not timely. A trial court’s decision whether to grant sanctions under MCR 2.114 is reviewed for clear error. *Attorney General v Harkins*, 257 Mich App 564, 575; 669 NW2d 296 (2003). We find no clear error here.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Kathleen Jansen

/s/ Michael J. Talbot